

# Lay and Deed Overview

Metro Water Services



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## Introduction

Nashville and Davidson County's growth over the past decade has been an extraordinary example of many successful partnerships between the private and public sectors. Private sector Developers, Contractors, and other service providers have responded to market demand for residential and commercial development in Nashville-Davidson County and surrounding areas. The Metropolitan Government of Nashville and Davidson County (Metro) has facilitated that growth while protecting the interests of existing residents and utility ratepayers.

*The Lay and Deed (MWS L&D) function conducted by Metro's Deeds and Bonds (D&B) team serves as one important part of that process, ensuring that local growth is enabled but also appropriately regulated and legally recorded, as required by law.*

Any developer-driven development process in the MWS service area (including Nashville-Davidson County, Nolensville, and Brentwood) requires some involvement from MWS D&B. However, MWS D&B's specific role in each project depends upon several factors, including the location of the project, whether it is a "greenfield" or previously platted site, and the specific site infrastructure requirements. Thus, it is impossible to describe the "standard" MWS L&D process. Instead, it is helpful to understand the various ways in which MWS D&B is involved in the development process, organized around several of the most common documents that are used to formalize the approval of the development and the construction of all required infrastructure.

Contact Penny Gilbert ([penny.gilbert@nashville.gov](mailto:penny.gilbert@nashville.gov)) for additional information on the Lay and Deed process.

## MWS Construction Plan Approval Letter and Development Application

After a Site Plan is approved by MWS DS (Development Services) (often including water, sewer, and stormwater components), MWS DS confirms the plan and commits the Developer to completing the infrastructure agreed to during the plan review process. MWS D&B personnel double check and reconcile any issues (such as infrastructure conflicts or zoning changes) across the multiple Metro departments completing the development services review processes, including MWS, NDOT (Nashville Department of Transportation), the Fire Marshal, Codes, and Planning. This serves as a quality check in the process and allows for construction process steps to begin. The development application process includes calculation of the inspection fees associated with the project.



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## Subdivision Plat Approval and Bond Requirement

Developing a new subdivision is a complex process that involves multiple steps designed to ensure the provision of adequate infrastructure to property owners. MWS D&B personnel oversee that process. Any subdivision of land that requires new water and/or sanitary sewer to serve the proposed lots requires a surety or bond to be put in place with Metro. The recommendation for subdivision plat approval is contingent upon the bonding, construction, and deeding of public water mains and/or sanitary sewer lines. This document is needed prior to issuance of Building Permits, service connection permits, and/or Use and Occupancy (U&O) permits.

## Performance Agreement

This is the document that legally binds the Developer to providing the agreed to improvements in compliance with MWS specifications and that specifies the amount of the irrevocable letter of credit that serves as the bond. It includes the authorization from the private party that the signee is empowered to enter into a performance bond on behalf of the private party.

## Letter of Credit

An irrevocable letter of credit is required to fulfill a bond requirement included in a performance agreement that commits the Developer to complete the infrastructure agreed to in the MWS DS plan review process in accordance with the specified timeline. MWS requires that all letters of credit be issued or confirmed by a local branch affiliated bank. The letter of credit remains in effect six months after the performance agreement expires.

## Bond Reduction Memo

Over the course of the development project, as portions of the required infrastructure are completed, the Developer may seek to reduce the required performance bond amount corresponding to the portion of the infrastructure that is completed. This document is a memo used for communication between Metro Planning and MWS for bond management that authorizes a reduction to a specific project's performance bond.

## Record As-Built Drawing

This is the formal set of plans by the project's Design Engineer or Surveyor to MWS D&B, Engineering Inspector, and Records and Mapping that accurately depicts the development as built out in accordance with all Metro and other binding requirements. It is submitted after the final inspection is completed by MWS personnel.



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## Deed of Conveyance

Once a Developer has completed all infrastructure committed to as part of a development and that infrastructure has been inspected by Metro inspectors, the Developer deeds the infrastructure over to MWS for future maintenance. The deed specifies the amount of water and sewer line installed and conveyed. It specifies the development served. It also references the applicable project number(s) and the associated cost.

## Bond Release Letter

After the infrastructure has been completed as required and after the infrastructure is conveyed to MWS, MWS D&B authorizes the bank to release the irrevocable letter of credit associated with the project.

## Note for MWS Out of County Sewer Projects

OOC Applicants, their banks, or surety companies will communicate with and submit directly to MWS regarding the Performance Agreements and Letters of Credits or Surety Bonds for any Lay and Deed Projects proposed at the time of Subdivision Plat review/approval by MWS. Any plats and bonds within Metro Planning's jurisdiction are held there through their Bond Officer. This includes MWS amounts along with other Metro agencies such as NDOT, Urban Forester, etc.